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PROTECTING HIS LEGACY: PRESIDENT OBAMA AND CLIMATE CHANGE IN THE WAKE OF A TRUMP ADMINISTRATION

I. INTRODUCTION

President Barack Obama will be remembered for many important acts including eliminating Osama bin Laden, passing health care reform, and adopting a new climate change policy. The latter, combatting climate change, has been the focus of much effort throughout his eight years in office and especially in his final months as President-elect Donald Trump prepares to take office.¹

Acknowledging this risk, and concerned with the great number of the president-elect's cabinet members with potential biases against dealing with climate change,² President Obama has utilized the 1953 Outer Continental Shelf Lands Act (OCSLA) and the Antiquities Act to prevent environmental disasters and maintain pristine habitats for Earth's inhabitants.³ Moreover, the president-elect has threatened to withdraw the United States from the Paris Agreement, which represents 197 countries' united efforts to mitigate climate change around the globe.⁴ Withdrawal from this agreement could send a negative response to other parties regarding the United States' commitment to environmental issues.

II. CLIMATE CHANGE

After repeated study, the mid-nineteenth century discovery of carbon dioxide's heat trapping nature and ability to influence "the transfer of infrared energy through the atmosphere" lead scientists to the undisputed conclusion that "increased levels of greenhouse gases must cause the [e]arth to warm."⁵ The abundant evidence of global warming includes

1. Ryan Cooper, Paul Glastris & Siyu Hu, *Obama's Top 50 Accomplishments*, WASH. MONTHLY (Mar./Apr. 2012), <http://washingtonmonthly.com/magazine/marchapril-2012/obamas-top-50-accomplishments/>.

2. Annie Sneed, *Trump's First 100 Days: Climate and Energy*, SCI. AM. (Nov. 29, 2016), <https://www.scientificamerican.com/article/trumps-first-100-days-climate-and-energy/>.

3. Coral Davenport, *Obama Bans Drilling in Parts of the Atlantic and the Arctic*, N.Y. TIMES (Dec. 20, 2016), http://www.nytimes.com/2016/12/20/us/obama-drilling-ban-arctic-atlantic.html?_r=0; Brandy McCombs, *Obama names Utah, Nevada Monuments despite GOP Opposition*, YAHOO! NEWS (Dec. 28, 2016), <https://www.yahoo.com/news/obama-names-utah-nevada-monuments-221032843.html>.

4. European Commission, *Paris Agreement*, EUR. COMMISSION (last updated Jan. 1, 2017), http://ec.europa.eu/clima/policies/international/negotiations/paris_en.

5. California Institute of Technology, *Climate Change: How do we know?*, NASA (Dec. 13, 2016), <http://climate.nasa.gov/evidence/>.

a sea level rise of 6.7 inches in the last 100 years (double the rate of the previous century), global temperature rises resulting in fifteen of the sixteen warmest years on record occurring since 2001, warming oceans, decreasing Greenland and Antarctic ice sheets, declining area and thickness of the Arctic sea, glacial retreat, ocean acidification, and decreased snow cover.⁶ The solution to combat climate change is to “move our energy system away from fossil fuels, toward energy efficiency and sustainable energy sources like wind, solar, and geothermal.”⁷ This is exactly what President Obama spent his presidency advocating for and precisely what Mr. Trump’s words and actions suggest he is opposed to.

III. THE SOURCE OF PRESIDENT BARACK OBAMA’S CONCERN

In 2012, the president-elect claimed “the concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive,”⁸ and in 2015 he mocked the idea of global warming by tweeting “[i]t’s really cold outside, they are calling it a major freeze, weeks ahead of normal . . . we could use a big fat dose of global warming.”⁹ More recently, the president-elect vowed to “cancel” the Paris Agreement¹⁰ because it is a “bad deal” for the U.S., and instead, encouraged drilling and a revival of the coal industry.¹¹

Further, although Mr. Trump has not made clear his specific policy on climate change, the above statements and his cabinet choices indicate a strong opposition to furthering President Obama’s—and the rest of the world’s, as evidenced by the Paris Agreement—goals for combating climate change. To name a few, Scott Pruitt, nominated for head of the Environmental Protection Agency, is an avid adversary of the EPA, has close ties to the fossil fuel industry, and aided in a law suit against the Clean Power Plan; Ryan Zink, nominated for head of the Department of the Interior has always voted for oil and gas drilling, and supports the Keystone XL Pipeline; Rex Tillerson, nominated for head of the Department of State is the former CEO of Exxon Mobil, which has pushed for drilling in the Arctic; and Jeff Sessions, nominated for Attorney General, who has said “there are legitimate disputes about the validity of global warming . . . [c]arbon dioxide does not hurt you.”¹²

6. *Id.*

7. Bernie Sanders, *Combating Climate Change to Save the Planet*, BERNIE 2016, <https://berniesanders.com/issues/climate-change/>.

8. Jim Young, *30 of Donald Trump’s wildest quotes*, CBS NEWS, <http://www.cbsnews.com/pictures/wild-donald-trump-quotes/13/>.

9. *Id.*

10. Sneed, *supra* note 2.

11. Alanna Petroff, *What if Trump dumps Paris Climate Deal?*, CNN MONEY (Nov. 17, 2016), <http://money.cnn.com/2016/11/16/news/trump-climate-change-cop21-emissions/>.

12. Mazin Sidahmed, *Climate change denial in the Trump cabinet: where do his nominees stand?*, THE GUARDIAN (Dec. 15, 2016),

IV. THE 1953 OUTER CONTINENTAL SHELF LANDS ACT

On December 20, 2016, President Obama utilized the OCSLA to permanently ban offshore oil and gas drilling along the Arctic and Atlantic Seaboard.¹³ The OCSLA provides jurisdiction to the United States over the continental shelf's submerged lands.¹⁴ The specific language of the act provides, "The president of the United States may, from time to time, withdraw from disposition any of the unleased lands of the Outer Continental Shelf."¹⁵ President Obama's decision bans drilling in "about 98 percent of federally owned Arctic waters . . . and blocks drilling off the Atlantic Coast around a series of coral canyons." This will protect pristine waters and habitats from environmental disasters such as the 2010 Gulf of Mexico oil spill. Further, given the influx of oil around the world and the fact that U.S. oil usage has plateaued, there is no present need for increased drilling in the United States.¹⁶ Showing support and a unified front, Canada's prime minister simultaneously enacted a similar ban on drilling in the Canadian Arctic waters.¹⁷ What is important to note about the OCSLA is that, "there is no authority for subsequent presidents to un-withdraw" lands from the protected status.¹⁸ Thus, making it unlikely the president-elect can take action to reverse President Obama's final presidential protective acts. President Obama's actions and Canada's simultaneous actions reinforce the United States' and world's commitments to mitigating climate change and encouraging the transition to the use of natural gas and renewable energy.

V. THE ANTIQUITIES ACT

In another final effort to safeguard historic landscapes housing a vast amount of archeological sites, rock formations, rare fossils, and dinosaur tracks from the destructive nature of oil and gas development, President Obama designated land in Utah and Nevada as national monuments under the Antiquities Act.¹⁹ These designations block mining and energy development, but not recreational activities such as hunting and fishing.²⁰ Again, these actions symbolize the importance of and a com-

<https://www.theguardian.com/environment/2016/dec/15/trump-cabinet-climate-change-deniers>.

13. Davenport, *supra* note 3.

14. 43 U.S.C. §§1331-1356.

15. 43 U.S.C. § 1341(a).

16. See U.S. ENERGY INFO. ADMIN., ANNUAL ENERGY OUTLOOK 2016 WITH PROJECTIONS TO 2040 (Aug. 2016), [http://www.eia.gov/outlooks/aeo/pdf/0383\(2016\).pdf](http://www.eia.gov/outlooks/aeo/pdf/0383(2016).pdf).

17. Davenport, *supra* note 3.

18. Juliet Eilperin & Darryl Fears, *President Obama bans oil drilling in large areas of Atlantic and Arctic oceans*, WASH. POST (Dec. 20, 2016), https://www.washingtonpost.com/news/energy-environment/wp/2016/12/20/president-obama-expected-to-ban-oil-drilling-in-large-areas-of-atlantic-and-arctic-oceans/?utm_term=.9fea21f039a7.

19. McCombs, *supra* note 3.

20. *Id.*

mitment to sustaining the earth's forests, canyons, rivers, deserts, and other historic landscapes from the harsh effects of fossil fuel exploration. Not to mention, the more trees preserved, the more carbon dioxide is taken from the atmosphere and converted into oxygen, thereby combating global warming one tree at time.

VI. THE FUTURE OF THE PARIS AGREEMENT

As discussed in section III above, Mr. Trump has not given the American people a reason to believe he supports the Paris Agreement. The agreement, which went into full force on November 4, 2016, sets out a global action plan to put the world on track to reduce the dangerous effects of climate change by reducing emissions and limiting global warming to well below two degrees celsius.²¹ Of the 197 parties to the convention, 120 have ratified the Agreement.²² The United States entered into the agreement on April 22, 2016 and ratification was accepted on September 3, 2016.²³

The Paris Agreement is unique because it is politically encouraged versus legally bound.²⁴ Moreover, as the United States is the second highest emitter of total greenhouse gasses, it is crucial that the country stay a party to the agreement.²⁵ The agreement represents a global united approach to curbing greenhouse gas emissions, and although withdrawal from the agreement takes about four years, the president-elect could simply stop participating in the agreement required meetings, or if elected for a second term, complete the withdrawal process.²⁶ Thus, if Mr. Trump decides to take one or both of the above mentioned paths, trade responses such as a carbon tax and harm to the U.S. economy could result.²⁷ For example, if the Trump administration pursues a business minded foreign policy, inaction or withdrawal from the agreement could adversely affect a renegotiation of NAFTA, or "damage American companies and economic innovation while needlessly ceding diplomatic ground to China."²⁸ In fact, DuPont, Intel, General Mills, the Kellogg Company, Mars Incorporated, L'Oreal, and the Craft Brew Alliance have

21. European Commission, *supra* note 4.

22. *Id.*

23. *Id.*

24. Olga Bonfiglio, *The politics behind the Paris agreement on climate change*, WEST. MICH. U. (last visited Jan. 3, 2017), <https://wmich.edu/arts-sciences/news-earthday-keele-climate-change>.

25. Thomas Damassa, Johannes Friedrich & Mengpin Ge, *6 Graphs Explain the World's Top 10 Emitters*, WORLD RESOURCES INS. (Nov. 25, 2014), <http://www.wri.org/blog/2014/11/6-graphs-explain-world%E2%80%99s-top-10-emitters>.

26. Robinson Meyer, *The Problem With Abandoning the Paris Agreement*, THE ATLANTIC (Nov. 18, 2016), <http://www.theatlantic.com/science/archive/2016/11/the-problem-with-abandoning-the-paris-agreement/508085/>.

27. Coral Davenport, *Diplomats Confront New Threat to Paris Climate Pact: Donald Trump*, N.Y. TIMES (Nov. 18, 2016), <http://www.nytimes.com/2016/11/19/us/politics/trump-climate-change.html>.

28. Meyer, *supra* note 26.

each urged the president-elect to remain committed to a “low carbon economy.”²⁹

VII. CONCLUSION

Although the president-elect has not clarified his position on global warming and climate change, based on his statements to the media, actions, and nominees for cabinet members, one can infer that Mr. Trump does not share the same goal—to combat climate change—that President Obama spent much of his presidency advocating for. Moreover, withdrawal or inaction regarding the Paris Agreement could hurt the U.S. economy and send the message to other countries that the United States is not committed to preserving our planet’s historic landscapes, pristine waters, and other environmental landmarks. It is crucial to our planet’s future, that despite the actions of those in power, the American people recognize and continue to take steps to mitigate the effects of climate change.

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29. *Id.*

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